

**HOUSE OF REPRESENTATIVES
CONSUMER AFFAIRS COUNCIL
1999 SUMMARY OF PASSED LEGISLATION**



COMMITTEE ON BUSINESS REGULATION & CONSUMER AFFAIRS

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MAY 1999**

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BUSINESS REGULATION & CONSUMER AFFAIRS

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 415, 2ND ENG.--Optical Discs/Markings **by Morroni (CS/SB 1308 by Criminal Justice; Webster)**

House Committee(s) of Reference: Business Regulation & Consumer Affairs; Crime & Punishment; Criminal Justice Appropriations

This bill regulates for the first time in Florida the manufacture of, and trade in, optical discs (Compact Discs, DVD's, CD-ROM's) for commercial purposes and creates penalties for violations of the act. This will reduce the ability of persons to counterfeit, "pirate" or "boot-leg" music, software, movies and the like. The bill requires manufacturers to place identifying marks on optical discs they produce, subject to fines.

The bill creates a first degree misdemeanor punishable for up to a year in jail or by a fine up to \$10,000, or both, for activities related to non-compliant optical discs. The bill also creates a first degree misdemeanor punishable by up to a year in jail or a \$50,000 fine, or both, for tampering with a compliant optical disc.

The bill has indeterminate fiscal effects on law enforcement and prosecution.

The effective date of the bill is October 1, 1999.

CS/HB 417, 1ST ENG.--Real Estate Brokers & Salespersons **by Real Property & Probate; J. Miller; Constantine (CS/SB 1072 by Regulated Industries; Sullivan)**

House Committee(s) of Reference: Business Regulation & Consumer Affairs; Real Property & Probate

CS/HB 417 provides for revisions of the statutes related to real estate brokers and salespersons. Specifically, the committee substitute:

- removes the requirement that the "notice of nonrepresentation" be provided by a real estate agent or broker to a potential buyer or seller in a residential real estate transaction upon the first contact between the parties; a portion of the repealed notice language is transferred to the current disclosure notice which is required for brokers and agents;
- exempts certain securities dealers and financial institutions from the registration requirements for real estate brokers if either negotiates the purchase or sale of a

- business enterprise for a third party and the sale or purchase involves land, buildings, fixtures, or other improvements to the land;
- clarifies that the Real Estate Commission may certify a person for licensure only if the person satisfies statutory requirements for licensure;
- subjects “designated salespersons” to disciplinary action for violations of the law; and
- provides limitations on entities and persons eligible for recovery from the Real Estate Recovery Fund, as well as, parties from whom money may be recovered.

The committee substitute does not appear to have a fiscal impact on state or local governments.

The effective date of the bill is October 1, 1999.

CS/SB 672--Deceptive Trade Practices/Print Ads by Agriculture and Consumer Services; Holzendorf (HB 1657 by Lynn)

House Committee(s) of References: Business Regulation & Consumer Affairs;
Criminal Justice Appropriations

The bill provides that a person may not misrepresent the geographic location of a supplier of a service or product by listing a fictitious name or assumed business name in print advertisement. A supplier may not advertise if the advertisement falsely represents that the supplier is located within the state and includes a telephone number which when called routinely forwards or transfers the calls to a business location which is outside the state.

The bill exempts a publisher of the advertisement from liability if a fictitious name or assumed name is published without knowledge of the advertisement being false or misleading. The exemption does not apply if the publisher is the supplier committing the offense. A person violating the prohibition commits a deceptive and unfair trade practice and is subject to a civil penalty of up to \$10,000 per violation.

There is no anticipated fiscal impact on state or local governments.

The effective date of the bill is upon becoming a law.

CS/HB 681, 2ND ENG.--Construction Liens & Bonds by Real Property & Probate; Merchant (CS/CS SB 1206 by Commerce and Economic Opportunities; Judiciary; Webster)

House Committee(s) of References: Business Regulation & Consumer Affairs; Real Property & Probate

This bill makes several changes to the Construction Lien Law, the purpose of which is to: (1) provide a special civil remedy to persons who supply labor, services, or materials during the construction of a home or building in the event they are not paid, and (2) provide procedures for property owners to avoid double payment for such labor, services, or materials. Specifically, it:

- specifies that time periods for serving a Notice of Nonpayment, for bringing an action against a contractor or surety, or for recording a claim of lien are not determined by issuance of a Certificate of Occupancy or Certificate of Substantial Completion;
- clarifies that a Notice to Owner *may* substantially conform to the recommended form, but *must* contain certain stipulated information;
- specifies certain information that is required in a Notice of Commencement and requires building officials to verify that the information is consistent with the building permit application;
- creates an exemption from Notice of Commencement requirements for direct contracts of less than \$5,000 for repair or replacement of an existing heating or air conditioning unit; and,
- renders void any provision in a contract for improvement of real property that requires legal action to be brought outside this state, and requires that the legal action shall instead proceed in this state, in the county where the cause of action occurred.

The effective date of the bill is October 1, 1999.

**HB 1061, 2ND ENG.--Consumer Protection
by Business Regulation & Consumer Affairs; Ogles and others
(CS/SB 1712 by Regulated Industries; Meek and SB 2292 by
Agriculture and Consumer Services; Forman)**

House Committee(s) of References: Financial Services; General Government
Appropriations

HB 1061 amends various consumer protection laws relating to charitable solicitations, home solicitation sales, telemarketing, pawnbrokers, sale of business opportunities and motor vehicle repair shops that are implemented by the Department of Agriculture and Consumer Services (DACS). The thrust of these statutes is to require information disclosure and remedies for violations. The bill is designed to clarify and enhance several of these provisions. It focuses on disclosing criminal histories occurring within the last 10 years and background information for persons operating under their respective statutes.

Additionally, the bill clarifies the definition of who is an assistive technology device dealer and establishes a registration program for dealers to be administered by the DACS. Registration qualifications are specified and enforcement authority is provided for the DACS. Investigative authority of the DACS is specifically provided to address consumer disputes with dealers.

Applicants for an initial pawnbroker license would incur the costs of the additional requirement of federal processing of fingerprints for a national criminal history check with an estimated fiscal impact of \$8,750 annually. The bill requires a new registration fee of \$300 from the assistive technology device dealer and a \$2 fee to be collected from the consumer at the time of the sale or lease of the device. An appropriation of \$450,000 is provided to the DACS for 6 new positions to administer the assistive technology device provisions.

The effective date of the bill is upon becoming a law.

**SB 1566, CS/CS/1ST ENG by Fiscal Policy; Commerce and
Economic Opportunities; Kirkpatrick;** (includes HB 1479 by Brown;
HB 1977 and HB 2017 by Business Regulation & Consumer Affairs,
Ogles and others, and CS/HB 2075 by Business Regulation &
Consumer Affairs and Bitner)

House Committee(s) of Reference: See below

Sections 133 - 142 and 144 - 150 contain the provisions of **HB 2017** (with four amendments adopted by the Committee on Governmental Rules and Regulation

amendments) by the Committee on Business Regulation and Consumer Affairs and Representative Ogles. It died in the Committee on Governmental Operations.

House Committee(s) of Reference: Governmental Rules and Regulations; Governmental Operations; General Government Appropriations

These provisions include:

- establishing legislative criteria for evaluating new professional regulation;
- authorizing the Department of Business and Professional Regulation (DBPR) to develop rules when there is no board;
- authorizing distance learning for continuing education courses;
- authorizing proration of continuing education requirements for anyone initially licensed in the second year of a biennial licensure cycle;
- requiring fingerprint cards and criminal history checks for athlete agents and property appraisers;
- prohibiting license renewal until all fees and fines are paid;
- authorizing various medical boards under the Department of Health to require by rule continuing education relating to risk management or cost containment;
- requiring registration and education for body wrappers and payment of a new \$25 registration fee;
- specifying that only cosmetologists may perform skin care services under chapter 477; and
- prohibiting body wrappers and skin care specialists from advertising as massage therapists.

Note: CS/CS/SB 1566 inadvertently omitted the exemption in HB 2017 of body wrappers from continuing education requirements.

Section 143 contains the revised provisions of **HB 1479**, relating to the clearance of minor violations from the record of a DBPR licensed professional, by Representative Brown. It died in House Messages.

House Committee(s) of Reference: Business Regulation and Consumer Affairs; Governmental Operations; Governmental Rules and Regulations

These provisions provide that a licensee under the DBPR may petition the DBPR to remove minor violations from the person's or business's disciplinary record after two years and providing the licensee has not re-offended. It also allows the DBPR to classify all disciplinary violations according to their severity, and to establish a schedule for removing such violations after a set period of time.

Sections 151 -156 contain provisions relating to the Department of Legal Affairs that were included by amendment and were not contained in a filed bill.

House Committee(s) of Reference: N/A

These provisions delete requirements that the Department of Legal Affairs provide counsel to the various boards under the Department of Business and Professional Regulation and the Department of Health. Instead, the departments are authorized to use their own attorneys, hire private attorneys, or contract with the Department of Legal Affairs.

Sections 157 - 163 contain the provisions of **HB 1977**, relating to continuing education, by the Committee on Business Regulation and Consumer Affairs and Representative Ogles. It died in the Senate Committee on Regulated Industries.

House Committee(s) of Reference: Governmental Rules and Regulations; General Government Appropriations

These provisions were adopted to improve the process for assuring compliance with continuing education requirements. They require that, by the year 2002, the DBPR must monitor 100% of professional licensees for compliance with continuing education requirements or privatize that activity. The provisions authorize administrative fines and provide that a license will not be renewed until all fines are paid and all conditions of a final order are met.

Section 164 contains the provisions of **CS/HB 2075** relating to insurance/CPA by the Committee on Business Regulation and Consumer Affairs and Representative Bitner. It died in the Senate Committee on Banking and Insurance.

House Committee(s) of Reference: Business Regulation and Consumer Affairs

These provisions authorize certified public accountants (CPA) to provide advisory services relating to insurance while acting within their scope of accounting practice. They limit the CPA's activities to advising clients as to the need for obtaining insurance, the amount of insurance, and the type of insurance needed. A CPA is prohibited from receiving any form of insurance commission or fee for these services.

SB 1830, 1ST ENG.--Filing with the Dept. of State by Scott (HB 1075, 1ST ENG. by Flanagan)

House Committee(s) of References: Business Regulation & Consumer Affairs; Business Development & International Trade; Finance & Taxation; Transportation & Economic Development Appropriations

This bill authorizes the Department of State to create a uniform business report. It will be used as a substitute for annual reports and renewals required by certain statutes and can be compiled into the master business index and directory of business activity. This will facilitate the efficient exchange of information. Corporations may be permitted to file required reports and renewals electronically (i.e. via the Internet).

The Department of State is given the authority to prescribe the use of the uniform business report, and to consolidate and establish filing and renewal dates. The bill removes statutory barriers to the use of technology (i.e. the Internet) and streamlines current practices of the Department of State.

Certain copying fee provisions that are confusing to the public are repealed. Also, certain search fees for which there is no longer service provided are repealed.

The bill has an indeterminate fiscal impact reducing both public and private costs.

The effective date of the bill is upon becoming law.

CS/SB 2268, 1ST ENG. by Regulated Industries; Clary (includes HB 1975 and HB 2015 by Business Regulation and Consumer Affairs; Ogles & others, and HB 1907 by Waters)

House Committee(s) of References: Community Affairs; General Government Appropriations; and, Community Affairs; Governmental Rules & Regulations; General Government Appropriations; and, Insurance; General Government Appropriations, respectively

This bill relates to the construction industry. It is the Senate companion to HB 2015, HB 1907, and HB 1975, combining the provisions from each bill. Specific provisions include:

- Establishing a grand fathering path for local contractors to become licensed statewide;

- Providing the Construction Industry Licensure Board the authority to establish the job scopes of local licenses which it registers, in order to insure uniformity; and
- Mandating a study to determine the fiscal impact on local jurisdictions, should statewide licensure be established as the sole licensure option. This provision takes effect upon the bill becoming law.
- Providing that licenses and permits for servicing fire extinguishers and fire suppression equipment issued by the State Fire Marshal will be valid for a two-year period, rather than a single calendar year. The fees are adjusted so that this higher biennial fee is a lower amount than is presently paid in the course of obtaining two annual licenses or permits (a \$150 *annual* licensure fee, becomes a \$250 *biennial* licensure fee, etc).

It also includes primarily clarifying provisions relating to building inspectors and administrators, asbestos abatement contractors, and electrical and alarm system contractors.

The effective date of the bill is October 1, 1999, except as otherwise provided.

FINANCIAL SERVICES COMMITTEE

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 27--Intangible Personal Property Tax by Starks as Section 5 of CS/SB 318, 2nd Eng.--General Bill by Fiscal Resource and Lee (HB 1943 by Finance & Taxation; Albright and others)

Senate Committee(s) of Reference: Fiscal Resource

Section 5 of CS/SB 318 encompasses both accounts receivable intangible tax exemptions and personal property intangible tax exemptions for natural persons. The increase from one-third to two-thirds in the accounts receivable exemption is the provision of HB 27 which passed the Financial Services Committee.

The Revenue Estimating Conference estimated that *eliminating accounts receivables* from the intangible tax (Section 5 of CS/SB 318) would negatively impact the General Revenue Fund by (\$40.1 m) for each FY in perpetuity.

The effective date is January 1, 2000.

CS/HB 133, 2nd Eng.--Corporations/Shareholders Voting by Financial Services; Goodlette & Others (SB 826 by Scott)

House Committee(s) of Reference: Financial Services; Business Regulation & Consumer Affairs

Shareholder Proxy Voting

The Committee Substitute for HB 133 modernizes authorized methods for corporate proxy voting. Options for executing a valid corporate shareholder proxy form are expanded from the current law requiring either the shareholder's personal signature or the shareholder's attorney-in-fact's signature on a proxy form, to include either: (1) the signature of a director, employee or other authorized agent; or, (2) the shareholder's signature affixed to the appointment form by any reasonable means, including a facsimile signature, by an authorized agent of the shareholder.

In addition, the means by which a shareholder may appoint an individual, a proxy solicitation firm, a support service, a registrar, or other similar agent to act as proxy for the shareholder is expanded from the transmission of a telegram or cablegram, to include any other electronic transmission, provided the transmission is submitted with information that verifies that the transmission was authorized by the shareholder.

Corporate representatives who verify the authenticity of the transmission are required to specify the information upon which they relied for that determination.

Holding Company Merger Without Shareholder Action

This bill clarifies current law which permits a publicly-held Florida corporation to re-organize itself as a holding company through a merger with a wholly-owned subsidiary without shareholder approval. The bill provides that such a merger may be effected providing all other statutory conditions are met and that the valuation of shares that are outstanding (shares issued by the corporation and purchased by consumers) immediately prior to the effective date of the merger remains the same.

The bill has no discernable fiscal impact.

The effective date of this bill is upon becoming a law.

CS/CS/SB 150--State Financial Matters by Banking and Insurance; Governmental Oversight; Horne and Others (CS/CS/HB 77 by Financial Services; Governmental Operations; and Flanagan)

Senate Committee(s) of Reference: Banking and Insurance; Governmental Oversight

The bill revises several sections of the statutes relating to the Department of Banking and Finance's (DBF, or department) accounting and auditing responsibilities and the department's structure. Specifically, the bill:

- augments the Comptroller's subpoena power to a level at par with that of other divisions of the DBF;
- requires state employees who become eligible to receive retirement benefits after this law becomes effective to receive such benefits via direct deposit;
- removes statutory provisions creating "divisions," within the DBF, and establishes the Office of Financial Investigations, along with repealer language effective January, 2003;
- specifies that the two year statute of limitations period for filing a wage or other benefit claim starts running from the date the payment was made;
- permits agency heads to delegate authority to approve employee travel expenses and per diem expenses;
- requires the DBF to print only the telephone number of the Comptroller's vendor ombudsman on purchase orders. In addition, state employees no longer must sign an annual statement that they were provided a copy of statutes and rules;
- increases the inventory reporting threshold of operating capital outlay (OCO) for most tangible personal property from \$500 to \$1,000, and increases the hardbound book threshold from \$100 to \$250;
- removes the requirement that the Comptroller "publish" financial statements by December 31, but requires the Comptroller to furnish them to the Auditor

- General by that date. The bill requires the Comptroller to publish the Comprehensive Annual Financial Report (CAFR) by February 28, annually; renames the State Automated Management Accounting Subsystem the Florida Accounting Information Resource Subsystem.

The bill does not appear to have a negative fiscal impact on state or local government.

The effective date of this bill is October 1, 1999.

CS/HB 221--Sales Tax/Coins, Currency, Bullion by Financial Services and Trovillion (SB 132 by Klein)

House Committee(s) of Reference: Financial Services; Governmental Rules & Regulation; Finance & Taxation; General Government Appropriations;

This bill creates a retail sales tax exemption for transactions of coin or currency which is legal tender of the United States, and creates an exemption for other coins or currency transactions over \$500. The bill also provides for a sales tax exemption for gold, silver, and/or platinum bullion transactions over \$500. In either of the transactions, the seller/dealer is required to maintain documentation identifying the portion of a transaction to which these exemptions apply.

The Director of the Department of Revenue is given the authority to adopt emergency rules under section 120.54(4), F.S., and section 120.536(1), F.S., for the purposes of prescribing the forms, documentation, and procedures necessary to administer the exemptions provided under this act. Notwithstanding any other provision of law, such emergency rules will remain in effect for a period of six months.

The estimated fiscal impact upon General Revenue is (\$0.3) million for FY 99-2000 and (\$0.3) million for FY 2000-2001. There will be a negative, but insignificant impact on the Solid Waste Management Trust Fund and local governments. The total estimated fiscal impact for this bill is (\$0.3) million for FY 1999-2000 and (\$0.3) million for FY 2000-2001.

Unless otherwise provided, the bill's effective date is July 1, 1999.

HB 743--Limited Liability Companies by Lacasa as Sections 1 and 4 of CS/SB 318, 2nd Eng.--General Bill by Fiscal Resource and Lee (HB 1943 by Finance & Taxation; Albright and others)

Senate Committee(s) of Reference: Fiscal Resource

All of the provisions of HB 743 which passed the Financial Services Committee were incorporated into Sections 1 and 3 of CS/SB 318. Section 1 of this bill will permit limited liability companies (LLC's) which have merged with other business entities to be identified with an "affiliated group of corporations," as defined by Section 199.023(8), F.S. (1998 Supp.). Section 3 of the bill authorizes such LLC's to file a consolidated intangible tax return with that group pursuant to Section 199.052, F.S. (1998 Supp.).

This bill will have no fiscal impact on state or local governments.

The effective date of the bill is January 1, 2000.

CS/SB 990--BANKS & TRUSTS/POWERS & DUTIES by Banking and Insurance and Grant; (HB 443 by Flanagan)

Senate Committee(s) of Reference: Banking and Insurance;

This bill effectively reenacts a provision scheduled for repeal September 1, 1999, which exempts certain banks or associations and trust companies from a prohibition against corporations conducting trust business in Florida. Specifically, the bill affirms this exemption for those banks or associations and trust companies resulting from an interstate merger transaction with a Florida bank under s. 658.2953, F.S., that have trust powers. Additionally, the bill incorporates this language into a restatement of the existing statutory language which exempts from this prohibition banks or associations and trust companies incorporated in Florida and national associations or federal associations lawfully conducting trust business in the state that has been approved by the Office of the Comptroller of the Currency. This provision clarifies that such out-of-state entities do not have to be physically located in the state, which in essence codifies in Florida law a current practice which is authorized under Federal banking laws.

This bill does not appear to have a fiscal impact on state or local governments.

The effective date of the bill is September 1, 1999.

CS/SB 1280--Financial Institutions by Banking and Laurent (HB 535 by Green)

Senate Committee(s) of Reference: Banking and Insurance

The bill amends s. 655.0385, revising the time period within which state financial institutions must notify the Department of Banking and Finance concerning the appointment or the employment of certain individuals and authorizing the Department of Banking and Finance to exempt certain financial institutions from reporting requirements (re. directors & executive officers). Also, the bill amends s. 655.948, F.S., revising notice and disclosure requirements and amends s. 658.26, F.S., exempting certain financial institutions from reporting requirements.

The bill does not appear to have a fiscal impact upon local governments, but Department of Banking & Finance projects reduced revenues of \$72,00 annually.

The effective date of the bill is July 1, 1999.

CS/SB 1264, 1st Eng.--Consumer Finance by Banking and Insurance and Rossin (CS/HB 661 by Financial Services and Roberts)

Senate Committee(s) of Reference: Banking and Insurance

The bill revises Chapter 516 (consumer finance) and Chapter 520 (retail installment loan), F.S., to conform the Department of Banking and Finance's regulatory provisions for these licensee's with the department's regulatory provisions for other financial services industries. The bill:

- eliminates the Department of Banking and Finance's authority to set fees by rule, and consolidates examination fees with application and renewal fees for Chapters 516 and 520, F.S.;
- eases notification requirements for relocation of offices and establishes a requirement to notify the department if the licensee is the subject of a bankruptcy action;
- expands the grounds for disciplinary action by the department to include a plea of nolo contendere to a crime involving fraud, dishonest dealing, or any other act of moral turpitude;
- expands installment contract requirements by requiring licensees to make certain disclosures on the written itemization and requiring lenders to provide the borrower evidence of satisfaction and to ensure that the title or contract indicates that the lien has been satisfied or released;

- permits borrowers to defer an installment payment for a fee, and authorizes lenders to charge a fee if the contract is paid in full within six months after the effective date of the contract;
- authorizes the department to promulgate rules permitting the electronic filing of fees and forms;
- authorizes retail sellers to collect a processing fee for retail installment contracts; and,
- makes numerous technical revisions to correct statutory cross reference citations.

According to the department's estimates, the bill may result in a negative fiscal impact of (\$336,000) for FY 1999-2000, a positive impact of \$764,500 for FY 2000-2001, and a negative fiscal impact of (\$625,000) for FY 2001-2002.

Unless otherwise provided, the bill has an effective date of October 1, 1999.

CS/SB 1326, 1st Eng.--Mortgage Brokers & Lenders by Banking and Insurance and Lee (HB 533 by Goode)

Senate Committee(s) of Reference: Banking and Insurance; Fiscal Resource

The bill revises Chapter 494, F.S., in general to conform the Department of Banking and Finance's regulatory provisions for mortgage brokers with the department's regulatory provisions for other financial services industries mainly by consolidating examination, application, and renewal fees resulting in an increase in some application and renewal fees. The bill requires reports listing associates or loan originators employed by licensees between October 1, 1999 and December 31, 1999, and for quarterly reports thereafter, and authorizes independent contractors to contract directly with mortgage lenders and prohibits independent contractors from contracting with more than one mortgage lender at a time.

Specifically, as to mortgage brokers and mortgage brokerage businesses, the bill clarifies disclosure requirements for written agreements, and eliminates the requirement to physically locate a principal place of business in Florida.

Specifically, as to mortgage lenders and correspondent mortgage lenders, the bill provides that each mortgage lender is accountable for any activity of an independent contractor. The bill also corrects and conforms statutory language to state that a mortgage lender or correspondent mortgage lender is not prohibited from acting as a "mortgage brokerage business."

The DBF estimates a \$0 impact for FY 1999-2000, a positive impact of \$225,000 for FY 2000-2001, and a negative impact of (\$225,000) for FY 2001-2002.

The bill has an effective date of October 1, 1999, unless otherwise provided.

**HB 2169--Real Estate Brokers & Salespersons by Goodlette as
Section 2 of CS/HB 417, 1st Eng.--Real Estate Brokers &
Salespersons by Real Property & Probate; Miller and Others
(CS/SB 1072 by Regulated Industries and Sullivan)**

House Committee(s) of Reference: Business Regulation & Consumer Affairs; Real Property & Probate;

The provisions of HB 2169 which passed the Committee on Financial Services eventually passed the Legislature as Section 2 of CS/HB 417. Section 2 of that bill amends s. 475.011, F.S., to exempt certain licensed securities dealers and certain licensed financial institutions from the registration requirements for real estate brokers if the dealers or institutions negotiate the purchase, sale, exchange or rental of a business enterprise to or by an accredited investor and the transaction involves the sale or purchase of land, buildings, fixtures, or other improvements to the land. The exemption does not apply to such purchases which are not made in connection with the transaction conducted in relation to the business enterprise.

The bill is effective October 1, 1999.

**CS/SB 2496, 1st Eng.--Intangible Personal Property Taxes (HB
1875 by Cantens)**

Senate Committee(s) of Reference: Fiscal Resource; Commerce and Economic Opportunities;

Only Section 3 of HB 1875 passed as Section 1 of CS/SB 2496. This section maintains the requirement that intangible tax would still be paid on any future advancement made against an instrument deemed a mortgage that provides for future advancements. However, it specifies that the nonrecurring intangible tax would be payable on the face amount of a line of credit, that is secured by a mortgage, deed of trust, or other lien, at the time the line of credit is established instead of paying intangible tax on each and every draw of the revolving line of credit.

According to the Fiscal Impact Committee Conference, the effect of this section in the first few years may result in a positive impact even though this issue carries a recurring negative impact of (\$3.5m). The first few years the state gets more money since the tax is paid when the line of credit is started. Later the state gets less money since the line of credit is not taxed every time a draw is made. According to the Committee the breakdown of the fiscal impact is as follows:

Fiscal Impact:	FY 99-00	FY 00-01
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Lines of credit:

General Revenue	\$2.4m	\$1.1m
Local	\$1.5m	\$0.6m

Unless otherwise noted, the bill become effective July 1, 1999.

INSURANCE COMMITTEE

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 295, 2nd Eng.--Personal Injury Protection by Villalobos (CS/SB 1978 by Banking and Insurance; Diaz-Balart)

House Committee(s) of Reference: Insurance; Judiciary

Insureds would be authorized to elect a deductible amount in combination with the exclusion of wage loss benefits under personal injury protection coverage that is required by Florida law for motor vehicle owners. Insurers would be required to disclose the option in a form approved by the DOI or on a form prescribed by law.

The provision in current law which makes Medicare and the coordination of military benefits primary to an insured's PIP insurance would be removed.

A motor vehicle insurer would be required to provide an insurer 30 days advance written notice at the time of renewal of any premium increase for a motor vehicle insurance policy.

The coverage election option and the 30-day notice of premium increase would apply to policies issued or renewed on or after July 1, 2000.

The bill provides that to be exempt from the requirement of having to make a down payment equal to at least 2 months premium on a motor vehicle insurance policy by paying through a payroll deduction plan or an automatic electronic funds transfer plan, an applicant must agree to pay all premiums in that manner. These policyholders would also be required to carry at least the minimum amounts of personal injury protection insurance and property damage liability, in addition to bodily injury in the amount of \$10,000 / \$20,000.

The effective date of the bill is July 1, 1999.

CS/HB 403, 1st Eng.--Title Insurance by Insurance; Byrd and Others (CS/SB 746 by Banking and Insurance; Grant)

House Committee(s) of Reference: Insurance

The committee substitute makes several changes to Florida law relating to title insurance.

The committee substitute contains the substance of CS/CS/CS/HB 93 (by Representative Starks) which revises the title insurance reserve requirements by:

- ◆ revising the release schedule for unearned premium reserves from a uniform 12 year release of 8.34 percent to a 20 year release schedule characterized by a 30 percent release the first year and one percent releases the final five years; and
- ◆ requiring each insurer to obtain an actuarial statement regarding the insurer's loss reserves and to supplement their premium reserves if the actuarially recommended level is higher than the insurer's actual level of reserves.

The committee substitute also restores the remuneration framework in existence for title insurance agents before the case of Butler v. Department of Insurance --i.e., the Florida law would again prohibit title insurance agents from negotiating, or offering any rebates on, the 70 percent portion of the premium retained by the title insurance agent. The committee substitute would also reenact anti-rebating provisions for title insurance.

Finally, the committee substitute would establish title insurance rates in statute for a three year period, including the title insurance rates for original owner's and leasehold and mortgage title insurance, reissue transactions, substitution loans, and new home purchases. The committee substitute retains for the same three year period the Department's current rules relating to premium rates that do not conflict with the provisions of the committee substitute. The committee substitute would also prohibit the Department of Insurance from granting any deviations from the established rates.

The effective date of the bill is July 1, 1999.

HB 717, 1st Eng.--Bail Bonds

by Crow (CS/CS/SB 1516 by Criminal Justice; Banking and Insurance; Clary)

House Committee(s) of Reference: Insurance; Corrections

This bill would revise various provisions in Chapter 903, F.S., including:

- ◆ extending the time frame within which the court can discharge a forfeiture of a bail bond which also would extend the time before a court could enter a judgment against a bail bond agent;
- ◆ requiring the court to set aside the forfeiture and discharge the bond if the defendant is arrested and returned to the county of jurisdiction prior to judgment;

- ◆ reducing the time frame after a judgment within which a bail bond agent can pay the judgment; and
- ◆ providing that original appearance bonds expire 36 months after the date the bond is posted.

This bill would also revise Chapter 648, F.S., relating to bail bond agents, so that guest lecturers may teach continuing education courses for bail bond agents in the presence of the supervising instructor.

The effective date of the bill is 60 days after adjournment sine die.

HB 897, 1st Eng.--Insurance anti-affiliation
by Sublette (CS/CS/SB 2402 by Agriculture and Consumer Services;
 Banking and Insurance; Rossin)

House Committee(s) of Reference: Insurance; Financial Services

Under current law, licensed insurance agents may not engage in “insurance agency activities” through a financial institution except in the case of a bank located in a city with a population of less than 5,000. The activities include the negotiation or sale of insurance policies or the servicing of an insurance policy. For purposes of this prohibition, “financial institution” includes “any bank, bank holding company, savings and loan association, . . . or any subsidiary, affiliate, or foundation of the foregoing.”

The anti-affiliation law would be repealed under the bill. Repealing the law would have the effect of permitting insurance agents associated with or employed by a financial institution to engage in insurance agency activities regardless of the population of the town in which the financial institution is located. Also, the authority would not be limited to just banks but to other financial institutions such as savings and loans. These activities would include the negotiation or sale of insurance products or the servicing of insurance policies. The bill would make no distinction between nationally-chartered (national banks) or federally-chartered (savings and loans) and state-chartered financial institutions. However, national banks would remain subject to the limitation on sales of insurance products in towns with populations of 5,000 or more contained in the National Bank Act. State-chartered banks would not be since they are not limited in this regard by the federal act. Included would be a set of regulatory requirements for the sale of insurance products in connection with other financial transactions.

The effective date of the bill is July 1, 1999.

***HB 975, 1st Eng.--Hurricane Loss Mitigation**
by Feeney and Others (SB 872 by Latvala)

House Committee(s) of Reference: Community Affairs; Finance & Taxation; General Government Appropriations

HB 975 requires that the Legislature annually appropriate \$7 million of the money authorized for appropriation from the Florida Hurricane Catastrophe Fund under s. 215.555(7)(c), F.S., to the Department of Community Affairs (DCA) for the Hurricane Loss Mitigation Program. These funds shall be used for programs to improve the wind resistance of residences and mobile homes through loans, subsidies, grants, demonstration projects, direct assistance, and other programs.

In the first year, 40 percent of the funds is to be used for mobile homes, 30 percent in the second year, and 20 percent in the third year. Ten percent of the money appropriated must be used by the Type I Hurricane Center of the State University System to support research and the development of loss reduction devices and techniques for residences.

The DCA is required to develop programs in consultation with an advisory council consisting of a representative of the Department of Insurance, a representative of the home builders, a representative of the insurance industry, a representative of the Federation of Mobile Home Owners, a representative of the Florida Association of Counties, and a representative of the Florida Manufacturer Housing Association.

The DCA is required to provide a full report of activities to the Speaker, the President of the Senate, and the Majority and Minority Leaders of the House and Senate.

This law is to be repealed on June 30, 2002.

The effective date of the bill is July 1, 2000.

**CS/HB 1749, 1st Eng.--Service Warranties
by Insurance; Farkas and Others (CS/SB 1234 by Banking and
Insurance; Latvala)**

House Committee(s) of Reference: Insurance; Business Regulation and Consumer Affairs; Judiciary

CS/HB 1749 prohibits an insurer that provides contractual liability coverage for 100 percent of the claims from delegating the responsibility for maintaining the claims reserve to the service agreement company. The insurer is also required to maintain adequate reserves to cover all claims exposure of the service agreement company for the duration of the policy.

The bill authorizes the motor vehicle service agreement company to set forth certain restrictions or limitations of the motor vehicle service agreement contract in regular type with a boldface heading, rather than boldface type.

Home warranty contracts would be required to state in conspicuous, boldfaced type that the home warranty may not provide coverage free of charge for the period that the home is listed for sale.

Maintenance service contracts that are longer than one year would be included in the definition of service warranty. Maintenance service contracts for less than one year that also provide a combination of parts and labor discounted by more than 20 percent fall under the definition of a service warranty. As such, these types of maintenance service contracts would be subject to regulation by the DOI.

The bill requires a service warranty association to obtain contractual liability insurance from an insurer that is authorized to write insurance in the state.

The effective date of the bill is upon becoming a law.

***CS/CS/SB 230, 1st Eng.--Department of Labor and Employment Security by Commerce and Economic Opportunities; Governmental Oversight and Productivity; Webster (HB 73 by Merchant & Others)**

House Committee(s) of Reference: N/A

This bill relates to the reorganization of the Department of Labor and Employment Security.

Sections 6, 7, 8, and 9 of the bill relate to the Division of Safety. These sections specifically limit the Division of Safety's jurisdiction to public sector employers only. The bill would also repeal the Division of Safety on July 1, 2000.

Section 38 of this bill relates to workers' compensation and would repeal the Division of Workers' Compensation's authority to charge up to \$50 for processing non-construction exemptions under s. 440.05, F.S.

The effective date of the bill is October 1, 1999.

***CS/SB 312, 2nd Eng.--Health Insurance by Banking and Insurance; Lee (CS/HB 2071 by Health Care Services; Peaden)**

House Committee(s) of Reference: N/A

CS/SB 312, 2nd Eng. includes the substance of CS/HB 1743 by Insurance and Wiles, relating to insurance fraud, and SB 1832, 1st Engrossed, relating to collateral protection insurance.

The bill makes a variety of changes to Florida law relating to insurance fraud and would adopt several of the recommendations of the Statewide Grand Jury. Some of the bill's changes include:

- ◆ Criminal penalties for insurance fraud are increased;
- ◆ Statutes of limitations for prosecuting insurance fraud are extended;
An Anti-Fraud Reward Program is established;
- ◆ HMOs are required to file anti-fraud plans and establish SIUs;
HMOs and HMO contracts are included under the law prohibiting false and fraudulent insurance claims and applications (s . 817.234, F.S.); and
- ◆ The criminal penalty for first offenses of "patient brokering" provisions are increased.

The bill appropriates \$250,000 from the Insurance Commissioner's Regulatory Trust Fund to implement the Anti-Fraud Reward Program.

This bill also includes the text of SB 1832, 1st Eng., relating to collateral protection insurance, which was also enacted by the Legislature as a separate bill.

The effective date of the bill is October 1, 1999.

CS/CS/SB 1242, 1st Eng.--Insurance & Investments by Judiciary; Banking and Insurance; Geller (HB 2235 by Gay)

House Committee(s) of Reference: N/A

CS/CS/SB 1242 would revise current law regarding viatical settlements several ways: advertising and sales materials would be available for DOI examination, additional disclosure requirements would be imposed, the DOI would be authorized to adopt a disclosure form by rule, the DOI would be authorized to issue cease and desist orders for regulatory violations, fines would be specified for certain violations, viatical settlement broker compensation would be required to be disclosed, and a person acting as a viatical sales agent would be required to be a licensed life agent.

Florida-based viatical companies would not be subject to Florida law when they enter into agreements with purchasers or viators in a state that regulates viatical settlements. In a state where viatical settlements are not regulated, Florida law would apply.

The section which prohibits a viator with minor children from viaticating more than 50 percent of a policy would not apply to out-of-state viators who enter into agreements with Florida-based viatical settlement providers. This section would be repealed June 1, 2000.

The effective date of this bill is upon becoming law.

***CS/CS/SB 1270--Traffic control/HSMV by Fiscal Policy;
Transportation; Casas (CS/HB 967 by Transportation; Kyle)**

House Committee(s) of Reference: N/A

A section of this bill amends s. 627.743, F.S., regarding the payment of third party claims. When making any payment on a third party claim for damage to a motor vehicle, insurers would be required to have a statement printed on the loss estimate that failure to use insurance proceeds to accordance with the security agreement could constitute theft under Florida law. This requirement would not apply if the insurer does not prepare the loss estimate.

This effective date of the bill is upon becoming a law.

**SB 1464--Depopulation/JUA
by Dyer (HB 995 by Gay)**

House Committee(s) of Reference: N/A

SB 1464 repeals a provision that prohibits the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) from offering take-out bonuses and assessment exemptions to insurance companies that take policies out of the association when the policy count of the association falls below 250,000. As of March 1999, there were 212,704 policies in the RPCJUA.

The effective date of the bill is March 1, 1999, operating retroactively.

**CS/CS/SB 1790--Florida Hurricane Catastrophe Fund
by Fiscal Policy; Banking and Insurance; Holzendorf (CS/HB 1711
by Insurance; Waters & Others)**

House Committee(s) of Reference: N/A

CS/SB 1790 would limit the claims-paying capacity of the Florida Hurricane Catastrophe Fund (Cat Fund) to \$11 billion for a current year, unless the board determines there is \$11 billion of capacity for both the current contract year and a subsequent contract year. Any additional growth in capacity would be reserved for losses incurred in a subsequent year, until the claims-paying capacity also reached \$11 billion for the subsequent year. If this determination is made by the board, one-half of the Cat Fund's estimated claims-paying capacity in excess of \$22 billion would be added to the \$11 billion limit for the current contract year.

Any funds left after the Cat Fund meet its contractual obligations with insurers, including the Florida Windstorm Underwriting Association (FWUA) and the Residential Property Joint Underwriting Association (RPCJUA), would be paid to the FWUA and the RPCJUA, if needed.

To fund reimbursement payouts for a subsequent contract year, the board would be granted an additional 2 percent assessment authority, available only in the event that the original 4 percent assessment capacity has been used in a previous year and events have caused reimbursable losses in a subsequent contract year. Unused assessment authority from prior contract years could be carried forward to subsequent contract years. The maximum assessment the Cat Fund could levy is 6 percent, but no more than 4 percent could be assessed for any one contract year. By increasing the assessment authority from 4 percent to 6 percent, the Cat Fund has access to funding to restore a portion of its bonding capacity if losses in a contract year deplete existing Cat Fund capacity. At no time would the total amount of assessment for all years exceed 6 percent.

The effective date of the bill is June 1, 1999.

**SB 1832, 1st Eng.--Collateral Protection Insurance
by Casas (HB 789 by Dockery)**

House Committee(s) of Reference: N/A

SB 1832 would define "collateral protection insurance" as commercial property insurance of which a creditor (such as a bank) is the primary beneficiary and policyholder and which protects or covers an interest of the creditor arising out of a credit transaction secured by real or personal property. Initiation of such coverage is

triggered by the mortgagor's failure to maintain insurance coverage as required by the mortgage or other lending document.

As defined, collateral protection insurance policies would be exempt from:

- ◆ mandatory participation in the Florida Hurricane Catastrophe Fund. Such policies would be currently excluded by contract and rules of the State Board of Administration, but the bill's exemption is somewhat broader; and
- ◆ the assessment base for the personal lines residential property insurance account of the RPCJUA. However, as commercial property insurance, such coverage would be included in the assessment base for the commercial residential account.

The bill would have no effect on the FWUA assessment base.

The effective date of the bill is July 1, 1999.

**CS/SB 2268, 1st Eng.--Contracting
by Regulated Industries; Clary (HB 1975 by Business Regulation &
Consumer Affairs; Ogles)**

House Committee(s) of Reference: N/A

Section 28 of CS/SB 2268 contains language relating to fire prevention and control that passed the Insurance Committee in HB 1907.

Licenses and permits for servicing fire extinguishers and fire suppression equipment issued by the State Fire Marshal would be valid for a two-year period, rather than a single calendar year. The fees would be adjusted to reflect the longer license or permit period. The fee for a license or permit issued for one year or less would be 50 percent of the biennial fee. Each licensee or permit holder would be required to complete at least 32 hours of continuing education courses every 4 years.

This bill take effect October 1, 1999.

CS/SB 2554, 2nd Eng.--Insurance Contracts by Banking and Insurance; King (HB 783 by Murman)

House Committee(s) of Reference: N/A

CS/SB 2554, 2nd Eng., relates to health care provider contracts. The bill includes a portion of HB 1753, 1st Eng., relating to health insurance rate filings, and the substance of CS/HB 2075, relating to insurance licensing requirements and certified public accountants.

That portion of HB 1753, 1st Eng., included in the bill, requires all fiscal intermediaries to include a detailed explanation of services being reimbursed when making payments to health care providers.

CS/HB 2075, included in the bill, would allow certified public accountants to provide limited services while acting within the scope of practicing accounting. A CPA would be authorized to advise clients as to the need for obtaining insurance, the amount of insurance recommended, and the type of insurance recommended to be purchased. The bill prohibits a CPA from receiving any insurance commission or fee.

The effective date of the bill is July 1, 1999.

***Bill not considered by the Committee on Insurance but containing insurance issues.**

REGULATED SERVICES COMMITTEE

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/SB 156, 1ST ENG--Alcohol & Tobacco Products/Minors by Comprehensive Planning, Local & Military Affairs, Hargrett and Others (HB 673, 1st Eng, by Eggelletion & Others)

House Committee(s) of Reference: N/A

The bill provides that a new location for on-premises consumption of alcoholic beverages may not be located within 500 feet of a school unless the county or municipal government approves the location as promoting the public health, safety and general welfare of the community. The bill exempts restaurants which derive at least 51 percent of their gross revenues from the sale of food and nonalcoholic beverages from the 500 feet restriction. The bill also exempts temporary three day permits issued to non-profit organizations from the 500 feet restriction. Finally, the bill makes the "purchase or the attempt to purchase" alcohol unlawful and makes the "attempt to purchase" tobacco products unlawful.

The bill provides that the act will take effect July 1, 1999.

CS/SB 172, 2ND ENG--Taxation by Fiscal Resource, Horne and Others (HB 53 by Bitner & Morroni; HB 1955 by Finance and Taxation, Albright, Bitner & Others)

House Committee(s) of Reference: N/A

Among its many taxation provisions, the bill reduces the surcharge on alcoholic beverages sold for consumption on a retailer's licensed premises by one-third. The surcharge is reduced to 6.67 cents on each one ounce of liquor or four ounces of wine, 4 cents on each 12 ounces of cider and 2.67 cents on each 12 ounces of beer. Distribution of surcharge revenue to the Children and Adolescents Substance Abuse [CASA] Trust Fund was increased in order that funding would not be diminished due to the reduction in surcharge collections. This reduced surcharge rate will reduce state revenue by approximately \$30.5 million in FY 99-00 and \$37.7 million in FY 00-01.

The bill provides that this provision will take effect September 1, 1999.

HB 209, 1ST ENG--Alcohol Sales/By the Drink by Bitner and Others (CS/SB 340 by Regulated Industries & Gutman)

House Committee(s) of Reference: Regulated Services; Election Reform;
Community Affairs

The Constitution of the State of Florida, Article VIII, Sections 5 and 6, reserves to each county the authority to determine, through a local option election, whether the sale of "intoxicating liquors, wines, or beer" [intoxicating beverages] may be allowed in that county. Section 5 requires a petition request signed by 25% of the electors in the county to hold an election and prohibits another election on the same subject for a period of two years. General law sets forth the procedure for petitioning for and holding a local option election and requires the ballot to pose two, two-part questions to the electorate. The first question is whether to vote "for" or "against" the sale of intoxicating beverages. The second question is to vote whether to allow "sales by the package and drink" or whether to allow "sales by the package only."

This bill allows a county, which has previously voted to allow the sale of intoxicating beverages by the package, an additional option of having an election, after the expiration of two years, on the sole question of whether to also allow sales of intoxicating beverages for consumption on premises. This legislation would not, however, preclude a county election which poses the two, two-part questions presently required by general law.

The bill provides that the act will take effect July 1, 1999.

HB 315, 1ST ENG--Alcoholic Beverages by Gay and Others (HB 719, 1st Eng, by Pruitt; CS/SB 1070 by Regulated Industries & Sullivan; CS/SB 1162 by Regulated Industries & Scott)

House Committee(s) of Reference: Regulated Services; Business Development &
International Trade

This bill amends the statutory definition of "discount in the usual course of business" to allow wine and spirit wholesalers to offer discounts, in addition to discounts based on volume, based on the license series or type held by the retailer. Additionally, this bill contains the substance of HB 719 which allows malt beverage distributors to charge different prices according to: county; branch location; whether the retailer sells the malt beverage for on-premises or off-premises consumption; or quantity, provided the price differentials are posted with the Division. These changes codify some existing industry practices and provide alcoholic beverage wholesalers with increased flexibility to respond to changing market conditions.

The bill provides that the act will take effect upon becoming law.

**SB 1426--Beverage License/Dunedin Fine Arts
by Latvala (HB 167 by Morroni & Others)**

House Committee(s) of Reference: N/A

This bill authorizes the issuance of a special alcoholic beverage license to the Board of Directors of the Dunedin Fine Art Center, Inc., a non-profit 501c(3) corporation. The license would authorize the sale and consumption of alcoholic beverages during special events held at the Center.

The bill allows the Board of Directors to transfer the license to qualified applicants who are authorized to provide food service at the Center. Upon termination of a food service vendor's contract, the license reverts to the Board of Directors by operation of law. The license is not transferable, however, to any other location. Further, the package sales of alcoholic beverages is prohibited.

The bill provides that the act will take effect upon becoming law.

**CS/SB 1444, 2ND ENG--Beverage License/Historic Structures
by Regulated Industries and Jones (CS/CS/HB 95 by Business
Development & International Trade; Regulated Services; Cosgrove &
Sorensen)**

House Committee(s) of Reference: N/A

This bill expands existing statutory criteria for a special hotel license to allow the issuance of a special liquor license to hotels and motels which are located in a historic structure if the establishment meets specified criteria. The hotel must:

- ◆ be located in a historic structure, as defined in s. 561.01(21);
- ◆ have no fewer than 10 and no more than 25 guest rooms;
- ◆ be located in a municipality in a constitutionally chartered county which, on the effective date of this act, has a population of no fewer than 25,000 and no more than 35,000 residents; and
- ◆ derive at least 60 percent of its gross revenue from the rental of hotel or motel rooms and the sale of food and non-alcoholic beverages.

The license would cover any restaurant or bar located in the hotel and would allow the sale and consumption of alcoholic beverages only on the licensed premises.

The bill creates an additional definition for a “specialty center” and includes any enclosed development which:

- ◆ has at least 170,000 square feet of leasable area which is under the dominion and physical control of the owner or manager of the development; and
- ◆ contains restaurants, entertainment facilities, specialty shops and a movie theater with at least 18 operating screens.

Alcoholic beverages sold for consumption on the premises by a vendor in these specialty centers may be consumed only in areas designated pursuant to s. 561.01(11) and may not be removed from the designated area.

The bill clarifies that all quota alcoholic beverage [liquor] licenses, whether issued under general law or under a special or local act, will be subject to the same requirements of the Beverage Law, including all assessments, surcharges, and transfer fees.

Finally, the bill allows the Division of Historical Resources of the Department of State to hold funds received from the sale of publications in either the operating trust fund of the Division or in a separate depository account of an approved citizen support organization subject to a letter of agreement.

The bill provides that the act will take effect upon becoming law.

CS/HB 1549--State Lotteries/Lottery Department by Regulated Services, Bense and Others (SB 1816 by Thomas)

House Committee(s) of Reference: Regulated Services; Judiciary

The bill allows a lottery prize winner to voluntarily assign all or part of that person’s prize award pursuant to a court order subject to certain conditions. Such assignment could not include money subject to attachment for delinquent or defaulted child support payments or payment for debts owed to the state unless appropriate provision is made in the court order to satisfy the obligation. The Department of the Lottery is authorized to establish a reasonable fee to defray the costs of administering and processing such assignments. The bill requires the Department of the Lottery to request a private letter ruling from the Internal Revenue Service concerning the tax treatment of other prize winners. If the IRS determines that such assignments will affect the federal tax situation of other prize winners, then assignments will be prohibited.

The bill contains a contingent effective date, and provides that the act will take effect upon becoming law, except that the right to assign a prize will take effect September 1, 1999 or upon receipt of a favorable private letter ruling, whichever occurs earlier. If, however, an unfavorable private letter ruling is received prior to September 1, 1999, the department is required to file a copy of the ruling with the Secretary of State and the State Courts Administrator and the courts would be prohibited from issuing an order authorizing a voluntary assignment after that date. Similarly, if the act takes effect September 1, 1999 and an unfavorable private letter ruling is received after that date, the bill requires the same procedure to take place.

Utilities and Communications Committee

1999 End-Of-Session Summary

Bills that Passed Both Houses

SB 180, 1ST ENG. - Public Records/E911 Wireless Services by Comprehensive Planning, Local and Military Affairs (HB 511 by Logan)

House Committee(s) of Reference: N/A

This bill provides public records exemptions for emergency 911 service over wireless communications networks. These exemptions are comparable to those applicable for land line communications. This is a separate bill establishing the exemption to implement HB 621 which addresses wireless emergency 911 service.

The effective date of the bill is upon HB 621 or similar legislation becoming a law (July 1, 1999).

SB 182, 1ST ENG. - E911 Wireless Trust Fund by Comprehensive Planning, Local and Military Affairs (HB 513 by Logan)

House Committee(s) of Reference: N/A

This bill creates a trust fund necessary to implement HB 621, and provides for the administration of such a fund. The bill's implementation is tied to SB 178 becoming law. HB 621 passed but its senate companion, SB 178, did not. However, HB 17 and HB 591 were amended to include language making this bill effective upon HB 621, or similar legislation, becoming law.

HB 317, 1ST ENG.- Sales Tax/Real Property/Cable by Gay (CS/SB 1200 by Regulated Industries; Sullivan)

House Committee(s) of Reference: Utilities and Communications; Finance and Tax; General Appropriations

The bill amends s. 212.031(1)(a), F.S. to except from taxation the use of public or private streets or rights-of-way, poles, conduits, fixtures, and similar improvements located on such streets or rights-of-way when used by a utility of a franchised cable television company for utility, communications or cable television purposes. For purposes of the exemption, "utility" is any person providing utility services as defined by s. 203.012. The exception also applies to property excluding buildings, wherever

located, on which specified categories of equipment are placed when such equipment is used for the provision of cellular, enhanced specialized mobile radio, or personal communications services.

The bill amends s. 212.05(1)(e)1.a., F.S., to provide that the tax on calls made with a prepaid telephone calling card is to be collected at the time of sale and remitted by the dealer selling or recharging the card. The bill creates standards with respect to calling cards by establishing 1) what constitutes a "prepaid calling card," 2) the location of a calling card sale under various scenarios; and 3) that a calling card is property in this state and subjects the selling dealer to the jurisdiction of the state for purposes of the subsection.

The bill provides specifications governing prepaid calling cards.

The effective date of this bill is July 1, 1999.

HB 433, 1ST ENG. - Telecommunications Frequencies by Ball **(SB 874 by Bronson)**

House Committee(s) of Reference: Utilities & Communications; Governmental Operations; Community Affairs

The bill substantially amends s. 843.165, F. S., relating to unauthorized transmissions and interference to governmental and associated radio frequencies. It prohibits unauthorized persons from transmitting over radio frequencies assigned by the FCC to state, county, municipal governmental agency or water management districts or governmental and emergency medical frequencies unless authorized in writing by certain authorities. It provides that no person may knowingly interfere with transmissions by authorized volunteers for any governmental agency, water management district, public or private emergency medical services provider, or Skywarn when they are providing communication support upon request of a governmental agency. The bill provides that any violation constitutes a first degree misdemeanor punishable as provided in s. 775.082 or s. 775.083, F.S. The bill also provides certain exceptions.

The effective date of this bill is July 1, 1999.

CS/SB 1352, 1ST ENG. - Water and Wastewater Regulation by Regulated Industries; Bronson (HB 925 by Arnall)

House Committee(s) of Reference: N/A

The bill amends s. 367.081, F.S., to prohibit the PSC from imputing (deducting) prospective future contributions-in-aid-of-construction against a utility's investment in property used and useful in the public service. The bill further provides that the PSC shall consider utility property as used and useful in the public service if it is needed to serve current customers or is needed to serve customers in the future under certain conditions. The bill provides that, if prudently invested, the PSC shall approve rates for service which allow a utility to recover the full amount of environmental compliance costs. The bill construes the term "environmental compliance costs." It also provides that this section does not apply to rate cases that are pending before the PSC on March 11, 1999.

The bill amends s. 367.021, F.S., to expand the definition of "governmental authority" to include a nonprofit corporation formed for the purpose of acting on behalf of a political subdivision with respect to water or wastewater.

The bill amends s. 367.022, F.S., to add to the list of exempt entities not subject to regulation by the PSC as a utility, and that are not subject to the provisions of this chapter. The bill includes water facilities as well as wastewater facilities that are operated by private firms under water or wastewater facility privatization contract and nonprofit corporations as defined in s. . 367.021, F.S. It eliminates the requirement that resellers of water and wastewater services must file an annual report with the PSC. It adds an exemption for entities that sell or resell wastewater services to governmental authorities or utilities regulated by chapter 367.

Section 367.071, F.S., is amended to allow approval of sales, assignments, or transfers of certificate of authorization, or facilities, or control of a utility if the contract for sale, assignment, or transfer is made contingent upon commission approval.

The bill amends s. 367.0816, F.S., to provide that water and wastewater utilities may recover rate case expenses over a 4 year period and need not be reduced at the end of the 4 year period.

The bill amends s. 367.0814, F.S., to authorize the PSC, in staff assisted rate cases for Class C utilities, to allow the collection of interim rates by the utility until the effective date of the final order. The interim rates may be based on a test period different from the one used in determining permanent rate relief. The interim relief is contingent upon the utility demonstrating that the operation and maintenance expenses exceed the revenues of the utility. The interim rates may not exceed the level necessary to cover operation and maintenance expenses. The PSC has the discretion to require the difference between the interim rates and the previously authorized rates to be secured.

The bill also provides for finalization of interim rates under certain circumstances. It also provides that this act does not apply to rate cases that are pending before the PSC on March 11, 1999.

Section 367.082, F.S., is amended to provide that the PSC is to complete any rate case that is underway when a county asserts jurisdiction over utilities within its boundaries.

The bill amends s. 367.091, F.S., to provide that, upon filing an application with the PSC for new rates, the utility shall mail a copy of the application to the CEO of the governing body of each county within the service areas included in the rate request. The governing body may petition the PSC for leave to intervene in the rate change proceeding and the PSC must grant intervenor status to any governing body that files a petition.

The effective date of this bill is upon becoming a law.

HB 2123, 2ND ENG. - Telecommunications by Utilities & Communications; Rojas - (SB 1008 by Regulated Industries; SB 2264 by Lee; SB 2296 by Casas)

House Committee(s) of Reference: Education Innovation; General Government Appropriations

The bill amends s. 364.025, F.S. to extend authority for the interim universal service mechanism for one year. Similarly, the bill extends for one year the requirement that local exchange telecommunications companies are carriers of last resort; this is the requirement that local exchange companies serve everyone who requests service.

The bill creates s. 337.401(10), F.S., to clarify that, except for specified subsections, s. 337.401, F.S., does not apply to the provision of pay telephone service on public or municipal roads or rights-of-way. As a result, when allowing pay telephones to be placed in public rights-of-way, local governments will be allowed to charge pay telephone providers more than the caps established by s. 337.401, F.S.

The bill amends s. 364.0252, F.S., to provide that the PSC initiate a comprehensive and ongoing consumer telecommunications information on the Lifeline and Link-up programs for low-income households and alerting consumers how to protect themselves from “slamming” and “cramming”.

The bill amends s. 367.24, F.S., to allow a telecommunications company to provide to its customers their own customer account record through telephonic means.

The bill amends s. 240.311, F.S., to authorize the State Board of Community Colleges to develop and produce work products to support distance learning instruction which

are subject to trademark, copyright, or patent statutes. In this regard, the board shall consider entering into contractual agreement for proportional ownership of distance learning work products. The bill further provides for the obligation of the board in relationship to patents, copyrights, and trademarks on work products and the enforcement of its board rights. The bill also provides that any proceeds therefrom shall be deposited and expended by a Florida not-for-profit corporation, incorporated under the provisions of chapter 617 and approved by the Department of State, and the bill further outlines related issues. This includes that by December 31, 1999, and annually thereafter, the State Board of Community Colleges shall report on the implementation of this section to the Speaker of the House of Representatives and the President of the Senate.

The bill creates new sections to transfer the distance learning provisions from chapter 364, F.S., to new ss. 241.001 - 004, F.S. The bill provides for definitions for the duties of the DOE concerning distance learning, for the creation, membership, organization, and meetings of the Florida Distance Learning Network Advisory Council, and for the administration of the Educational Technology Grant Program.

The bill repeals ss. 364.509, 364.510, 364.511, 364.512, 364.513, 364.514, F.S., which includes provisions establishing the distance learning network, the powers of the Board of Directors for the network, the executive director for the network, and the annual report.

The bill creates the Information Service Technology Development Task Force for two years to be located in the Department of Management Services. The Task Force is to 1) develop overarching principles to guide state policy with respect to the free market development and beneficial use of advanced communications networks and information technologies, 2) identify factors that will affect whether these technologies will flourish in Florida, and 3) develop policy recommendations for each factor. The Task Force is to report to the Governor, the Speaker of the House, and the President of the Senate annually. The bill provides for membership on the Task Force, authorizes four positions and appropriates \$250,000 for the Task Force.

The bill repeals language in the budget which established standards to measure commission performance for purposes of performance based budgeting.

The effective date of this bill is upon becoming a law except as otherwise provided.